

IF YOU ARE A USED CAR DEALER WHO HAD A FLOORPLAN AGREEMENT(S) WITH DEALER SERVICES CORPORATION, NOW KNOWN AS NEXTGEAR CAPITAL, INC. (“NEXTGEAR”), AT ANY TIME BETWEEN JANUARY 2005 AND JULY 2013, YOU MAY BE A MEMBER OF A CLASS ACTION AGAINST NEXTGEAR THAT HAS BEEN CERTIFIED BY A FEDERAL COURT.

**THIS LAWSUIT MAY AFFECT YOUR RIGHTS.
A COURT AUTHORIZED THIS NOTICE.
THIS IS NOT A SOLICITATION FROM A LAWYER.**

NOTICE OF PENDENCY OF CLASS ACTION LAWSUIT

Used car dealers have sued NextGear Capital, Inc. (“NextGear”), formerly known as Dealer Services Corporation (“DSC”), alleging that NextGear breached the terms of its contracts with the used car dealers by charging interest on money not actually loaned, resulting in additional interest charges that they never agreed to pay. These are, however, only the used car dealers’ allegations. The Court has not yet decided if they are correct, and NextGear denies the allegations.

The court has certified this case to proceed as a class action on behalf of all used car dealers who meet the definition described below in Paragraph 1. The lawsuit is pending in the United States District Court for the Southern District of Indiana.

You should review this notice because if you do not want to be a part of the class, you must ask to exclude yourself by a letter postmarked no later than [REDACTED], 2019 (Please see paragraph 12, below, for details).

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
DO NOTHING	<p>Stay in this lawsuit. Await the outcome. Give up your right to sue separately.</p> <p>By doing nothing, you keep the possibility of getting money or benefits that may come from a class trial or a settlement. You cannot, however, recover or try your claims twice; so, by participating in the class action, you give up any rights to sue the NextGear separately about the same legal claims at issue in this lawsuit.</p>
ASK TO BE EXCLUDED	<p>Get out of this lawsuit. Get no benefits from it. Sue separately.</p> <p>If you ask to be excluded, you will not be entitled to any money or benefits that are later obtained in a class trial or a settlement. But, you keep any rights to sue NextGear separately about the same legal claims in this lawsuit. You may have to hire a lawyer to sue NextGear separately if you want to seek money from NextGear.</p>

BASIC INFORMATION

1. Why did I get this notice?

A copy of this Notice was mailed to all used car dealers identified from NextGear's records as potentially being members of either a Nationwide Class or a California Subclass as described below.

You are a member of the Nationwide Class certified by the Federal Court if you are a used car dealer in the United States of America that was a party to a Floorplan Agreement with DSC, n/k/a NextGear, effective during the time period of January 2005 through July 2013, unless you fall within the California Subclass, which is described below.

You are a member of the California Subclass certified by the Federal Court if you are a California used car dealer in the United States of America that was a party to a Floorplan Agreement with DSC, n/k/a NextGear, effective during the time period of January 2005 through July 2013, which Floorplan Agreement requires the application of California law.

You have legal rights and options that you may exercise at this time. This lawsuit is known as Red Barn Motors, Inc., et al. vs. NextGear Capital Inc., f/k/a Dealer Services Corporation, et al., Case No. 1:14-cv-01589-TWP-DML (S.D. Ind.).

2. What is a class and who is involved?

In a class action lawsuit, one or more people with a claim similar to yours files a lawsuit on behalf of other people who have similar claims. That person or persons are the "Class Representative."

Class representatives who sue — and all the Class Members like them — are called the "Plaintiffs." The company that they sued, NextGear, formerly known as DSC, is called the "Defendant." In many class actions, to avoid the need for multiple lawsuits, one court resolves the issues for everyone in the Class — except for those people who choose to exclude themselves from the Class. A list of the used car dealers who will act as the Class Representatives is available in the Plaintiffs' Amended Class Action Complaint, which you can read at [www. \[REDACTED\].com](http://www. [REDACTED].com).

3. Why is this lawsuit a class action?

In this lawsuit, the Court decided that the claims asserted against the Defendant may proceed as a class action because the Plaintiffs satisfied the necessary requirements of federal law governing class actions. The Court determined that a class action is superior to requiring thousands of used car dealers to file individual lawsuits because it will be more efficient for the used car dealers and the court system. More information about why the Court is allowing this lawsuit to be a class action is in the Court's written opinion available at [www. \[REDACTED\].com](http://www. [REDACTED].com).

THE CLAIMS IN THE LAWSUIT

4. What is the lawsuit about?

According to the Plaintiffs: The Plaintiffs, on their own behalf and on behalf of the members of the Class, allege that NextGear breached the terms of its Floorplan Agreements with the Plaintiffs by charging interest

on money not actually loaned, resulting in additional interest charges that the used car dealers never agreed to pay.

According to Defendant: The Defendant, NextGear, denies these allegations, denies that it breached the contracts with the Plaintiffs, and denies all liability.

5. What are the Plaintiffs asking for on behalf of the Class?

The Plaintiffs are asking the Court to find that the Defendant's wrongful conduct caused monetary damages in an amount to be determined at trial, including the costs of bringing the lawsuit, which include reasonable attorneys' fees, litigation expenses, and pre-judgment and post-judgment interest on all damages.

6. Has the Court decided who is right?

The Court has not decided whether the Plaintiffs or the Defendant is correct or whether the used car dealers have suffered any damages. The Court has made a number of legal rulings in the case, and those rulings, along with the pleadings filed by the Plaintiffs and the Defendant, are available at [www. \[REDACTED\].com](http://www. [REDACTED].com).

The Court has certified a class action on the Plaintiffs' breach-of-contract claim against NextGear – that is, NextGear breached the terms of its Floorplan Agreements by charging interest on money not actually loaned, resulting in additional interest charges that the Plaintiffs never agreed to pay.

By certifying this lawsuit as a class action and issuing this notice, the Court is not suggesting that the Plaintiffs will win or lose the case. The purpose of a class action is to decide those issues on behalf of all Class Members in one lawsuit.

7. Is there any money available now?

No money or benefits are available now. No money will be available unless and until the Defendant and the Plaintiffs reach a settlement or the Plaintiffs prevail at trial and following all appeals. There is no guarantee that money or benefits ever will be obtained. If any money or benefits are obtained, you will be notified of your entitlement to recovery and how to obtain it. To be eligible for any recovery as part of this class action lawsuit, you must remain in the class. If you remain in the class and no money or benefits are obtained, you will have no right to seek recovery of any damages or other relief from the Defendant.

WHO IS IN THE CLASS

8. Am I a part of this class?

You are a member of the Nationwide Class certified by the Federal Court if you are a used car dealer in the United States of America that was a party to a Floorplan Agreement with DSC, n/k/a NextGear, effective during the time period of January 2005 through July 2013.

You are a member of the California Subclass certified by the Federal Court if you are a California used car dealer in the United States of America that was a party to a Floorplan Agreement with DSC, n/k/a NextGear, effective during the time period of January 2005 through July 2013, which Floorplan Agreement requires the application of California law.

9. I'm still not sure if I am included.

If you are still not sure whether you are included, you can get free help (a) at [www. \[REDACTED\].com](http://www. [REDACTED].com), (b) by calling [REDACTED], or (c) by writing to the Notice Administrator at:

Red Barn v. NextGear
c/o Analytics Consulting LLC
P.O. Box 200 [REDACTED]
Chanhassen, MN 55317-200 [REDACTED]

YOUR RIGHTS AND OPTIONS

10. What happens if I do nothing at all?

By doing nothing, you are staying in the class. If the Plaintiffs win, you may be entitled to money or benefits as determined by the Court. If the Plaintiffs lose, you will not be able to sue the Defendant again for the claims in this lawsuit and will be bound by that outcome. If the case settles, you may or may not be afforded another opportunity to exclude yourself from the class as determined by the Court, but you will be afforded the right to object to the terms of any settlement.

The Court will not permit a settlement of your claims, unless it is fair and reasonable.

11. Why would I ask to be excluded?

You must ask to be excluded if you want to sue the Defendant separately on behalf of yourself or if you do not want to be included in the right to participate in any recovery that might occur in the class action. If you have already filed a separate lawsuit and want to proceed on the basis of that lawsuit, rather than through this class action, you will have to ask to be excluded from this lawsuit. If you make the choice to be excluded and to pursue a lawsuit separately you may have to hire your own lawyer, respond to discovery, potentially have your deposition taken, and appear and prove your claims at trial.

If you stay in the class action, you will not have to do anything, unless and until a recovery is obtained. At that point, the Court will notify you what you need to do to receive your share of the recovery. No attorneys' fees will be awarded, unless the Plaintiffs prevail against the Defendant. Typically, attorneys' fees for a class action recovery range from 25% to 33% of the overall recovery, but ultimately it will be up to the Court to determine attorneys' fees.

Because your claims may be subject to a time deadline, if you want to exclude yourself from the class to file a separate case, you should consult a lawyer.

12. How do I ask to be excluded?

If you do not wish to participate as a Class Member, you must timely return a written request to be excluded from the Class. A written request to be excluded from the Class must include all of the following: (i) the Class Member's name; (ii) the Class Member's current mailing address; and (iii) the statement "I want to be excluded from the Red Barn vs. NextGear case."

To be timely, a written request to be excluded from the Class must be postmarked on or before [REDACTED] and must be mailed, with sufficient postage prepaid and affixed, to:

Red Barn v. NextGear
c/o Analytics Consulting LLC
P.O. Box 200X
Chanhassen, MN 55317-200X

13. Do I have a lawyer in the class action?

The Court has appointed the lawyers listed below to represent the class. These lawyers are referred to as Class Counsel. These lawyers have experience in prosecuting complex cases on behalf of plaintiffs. The Court has determined that they are qualified and that they have ably represented the interests of Class Members in this litigation.

Class Counsel are:

CATHERINE E. LASKY
KERRY A. MURPHY
LASKY MURPHY LLC
715 Girod Street, Suite 250
New Orleans, Louisiana 70130

KATHLEEN ANN DELANEY
DELANEY & DELANEY LLC
3646 North Washington Blvd.
Indianapolis, IN 46205
Telephone: (317) 920-0400

GLADSTONE N. JONES, III
LYNN E. SWANSON
JONES, SWANSON, HUDDALL &
GARRISON, L.L.C.
601 Poydras Street, Suite 2655
New Orleans, Louisiana 70130

CASSIE E. FELDER
THE CASSIE FELDER LAW FIRM
7515 Jefferson Hwy., #313
Baton Rouge, LA 70806
Telephone: (504) 232-1733

JAMES M. GARNER
RYAN D. ADAMS
MATTHEW M. COMAN
SHER GARNER CAHILL RICHTER
KLEIN & HILBERT, L.L.C.
909 Poydras Street, Suite 2800
New Orleans, Louisiana 70112

14. Should I get my own lawyer?

If you decide to stay in the class, you do not need to hire your own lawyer, but you are welcome to do so. Class Counsel, who were appointed by the Court, are working on your behalf. But, if you want another lawyer, you will have to hire one on your own. For example, you may ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

15. How will the lawyers be paid?

Class Counsel are working on a contingency-fee basis. You will not have to pay Class Counsel anything if there is no recovery. Class Counsel will get paid only if they get money or benefits for the Class, whether by favorable judgment or settlement. If that occurs, Class Counsel may ask the Court for their fees and expenses. The Court will only award fees and expenses that it finds reasonable. If the Court grants Class Counsel's request, the fees and expenses may be deducted from any money obtained for the Class, paid separately by the Defendant, or a combination of the two. Generally, in class actions, the attorneys' fees

deducted from any recovery are no more than one-third (33.3%) of the recovery. The fees may sometimes be less but will not exceed that amount in this case.

16. How and when will the Court decide the case?

If the case is not resolved by a settlement or otherwise, Class Counsel will have to prove the Plaintiffs' claims at a trial. During the trial, the Judge will hear all of the evidence to help her reach a decision about whether the Plaintiffs or the Defendant is right about the claims in the lawsuit.

17. Do I have to come to trial?

If you stay in the class, you will not have to testify at the trial and will not be required to attend it. Class Counsel will present the case for the Plaintiffs, and the Defendant will present its defenses. You and your own lawyer (if applicable) are welcome to attend the trial at your own expense. If the Plaintiffs prevail at trial on the class issues, the Court will inform you as to what information you may need to provide to share in any monetary recovery.

18. Will I get money after the Court rules?

If you stay in the class action and the Plaintiffs obtain money or benefits as a result of the trial or a settlement, you will be notified about how to receive any share recovered on your behalf. At this time, we do not know whether the Plaintiffs will obtain any recovery and, if so, how long it might take for you to receive your share.

GETTING MORE INFORMATION

19. Is more information about the lawsuit available?

Yes. If you have any questions or require additional information, you should contact the Notice Administrator in one of the following ways:

XXX-XXX-XXXX

www. .com

PLEASE DO NOT CONTACT THE COURT
OR THE COURT CLERK REGARDING THIS MATTER

IMPORTANT: You should promptly notify the Notice Administrator, via www. .com or XXX-XXX-XXXX:

- *If you received this Notice at an address different from the address to which it was mailed, or*
- *If your address changes in the future, or*
- *If you did not receive a Notice by mail but nevertheless believe you are a Class Member.*